



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 070038

Petitioner, Alan Skolnick, applied to the Building Commissioner for permission to construct an addition to his existing single family home, per plans, located at 325 Goddard Avenue. The application was denied and an appeal was taken to this Board. The Board met and fixed July 19, 2007 at 7:30 P.M. in the Main Library, Hunneman Hall on the second floor as the time and place of a hearing on the appeal. The Board determined who were the parties affected as they appeared on the most recent local tax list as certified by the Assessors of the Town of Brookline, and notified them, the Planning Board, the Petitioner, and all others required by law by mail. Notice of the hearing was published on June 28, 2007 and July 5, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., c.39, sections 23A and 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

PETITIONER: **AIAN SKOLNICK**
LOCATION OF PREMISES: **325 GODDARD AVE BRKL**
DATE OF HEARING: **07/19/07**
TIME OF HEARING: **7:30 P.M.**
PLACE OF HEARING: **Main Library, Hunneman Hall, 2nd floor**

A public hearing will be held for a variance and/or a special permit from:

- 1) 4.01.2; Permitted Uses; Special Permit Required.
- 2) 5.01; Lot Area or Yards Required; Variance Required.
- 3) 5.09.2.b.c.d; Design Review; Special Permit Required.
- 4) 5.09.3.e; Plan Revisions; Special Permit Required.
- 5) 5.20; Floor Area Ratio; Variance Required.
- 6) 5.43; Exceptions to Yard and Setback Regulations; Special Permit Required.
- 7) 5.70; Rear Yard Requirements; Variance Required.
- 8) 8.02.2; Alteration or Extension; Special Permit Required.
- 9) Board of Appeals Decision; Case #2315 dated August 20, 1979; Modification Required.

Of the Zoning By-Law to construct an addition and an open porch per plans at **325 GODDARD AVE
BRKL**

Said premises located in a **S-25** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Diane Gordon
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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing were Board Members Lawrence Kaplan, Chairman, Bailey Silbert and Murray Shocket. Petitioner Alan Skolnick was represented at the hearing by Attorney Joshua M. Fox of Rollins, Rollins & Fox, 60 William Street, Suite 220, Wellesley, Massachusetts. Also present was Petitioner's wife, Rose Skolnick, and project architect Adolfo Perez.

Mr. Fox described the factual background of the petition as follows: Petitioner's lot contains 13,326 sq. ft. of land and is also surrounded by 11,588 sq. ft. of exclusive use area subject only to subsurface rights of a neighboring condominium association. The proposal entails exterior and interior renovation work as well as

approximately 334 sq. ft. of additional finished space at 325 Goddard Avenue. The premises is located in an S-25 District which requires a minimum lot size of 12,500 sq. ft. within a cluster subdivision. This lot is within a cluster subdivision approved by the Board of Appeals in 1979 in Case No. 2315.

Mr. Fox explained that this project requires relief from several sections of Brookline's Zoning By-law ("By-law"). First, a Special Permit is required because the Petitioner's proposal exceeds the maximum Floor Area Ratio allowed by Section 5.0 Table of Dimensional Requirements. Mr. Fox explained that Section 5.0 Table of Dimensional Requirements allows a maximum Floor Area Ratio of .2, but that the Floor Area Ratio may be increased by up to 150% of such amount if the Board grants Special Permit relief pursuant to Section 5.22(c)(3) of the By-law, provided that the increase in floor area is less than 350 sq. ft. Mr. Fox explained that the proposed addition is only 334 sq. ft., and that the Floor Area Ratio will not exceed 150% of that which is otherwise allowed as of right.

Mr. Fox explained that this proposal requires a second Special Permit pursuant to Section 5.43 as a result of a slightly greater encroachment into the rear yard setback than the existing conditions. Mr. Fox noted that the encroachment is actually into the Petitioner's own exclusive use area, and that the property is unique in that it contains four rear lot lines, thereby drastically reducing the as-of-right building envelope. Mr. Fox added that the counterbalancing amenity proposed for this slight increase in encroachment is the Petitioner's agreement to work with the neighboring condominium association toward an informal construction management plan to address issues of noise and working hours during the construction of the proposed project.

Mr. Fox explained that this proposal requires additional Special Permit relief pursuant to Section 5.09.2.b,c,d and 5.09.3.e(10) Community and Environmental Impact and Design Review and Plan Revisions, respectively. Mr. Fox noted that the small addition would be in harmony with the existing structure. He stated that there would be no negative community or environmental impact. Mr. Fox submitted an impact statement for the record.

Mr. Fox then stated that the proposal requires Special Permit relief pursuant to Section 4.01.2 because it lies within a previously approved cluster subdivision, Special Permit relief pursuant to Section 8.02.2 because the premises may contain a non-conforming structure, and relief in the form of a modification to Board of Appeals Case No. 2315 (previous approval of cluster subdivision which includes locus).

Mr. Fox explained that because of post-filing clarifications and plan revisions, no variances are required pursuant to Sections 5.01 and 5.20 as originally cited by the Building Department in its rejection letter dated April 24, 2007.

Mr. Fox concluded by stating that the Petitioner's proposal would not create any traffic impact or nuisance, that the project would not adversely affect the availability of low and moderate income housing in Brookline and that the project would not be detrimental to the neighborhood.

The Chairperson then asked if there were any members of the public who wish to speak in support or opposition to the Petitioner's proposal. Dan Greenberg, Trustee of the Townhouses at Larz Anderson Condominium, an abutter, stated that he welcomed the Skolnicks to the neighborhood, but that the trustees were concerned with issues related to construction management such as placement of the portable toilet, parking, construction noise, and construction hours.

Mr. Fox responded that he had discussed these issues with Mr. Greenberg as well as another trustee, and felt that they had come to agreement on all issues except morning start time, of which he was waiting for input from the builder.

The Chairperson then called upon Lara Curtis, Assistant Planner. Ms. Curtis gave the Planning Board report: The Planning Board met on this proposal on July 12, 2007 and the Board voted unanimously to recommend to the Board of Appeals to approve the proposal and the plans, titled "Skolnick Residence – 325 Goddard Avenue" and dated 6/18/06, subject to conditions.

The Chairperson then called upon Frank Hitchcock, Senior Building Inspector. Mr. Hitchcock spoke on behalf of the Building Department. Mr. Hitchcock confirmed that Mr. Fox had identified the applicable By-law provisions in this case. Mr. Hitchcock stated that the Building Department had no objection to this project. Mr. Hitchcock stated that it is notable that the prior zoning relief granted for the cluster subdivision complicated the relief required this evening, reminding the board that this is a very minor addition, 334 square feet.

The Board, having deliberated on this matter and considered the foregoing testimony makes the following findings pursuant to Sections 5.09 and 9.5 of the By-law:

1. The site is an appropriate location for the proposed project for reasons including that the addition is relatively small (334 sq. ft.), and the additional rear yard set back encroachment is slight and only encroaches into an exclusive use area for the benefit of the Petitioner.
2. The proposal as developed will not adversely affect the neighborhood.
3. There is no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper use of the proposed addition.

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5. The addition, as proposed, will not have a significant adverse effect on the supply of housing available for low and moderate income people.
6. The proposed addition will not have any negative impact on the community or environment, and is designed appropriately.

Accordingly, the Board denies the requested Variances from By-law Sections 5.01 and 5.20 finding that they are unnecessary, and grants the Special Permits pursuant to By-law Sections 4.01.2, 5.09.2.b.c.d, 5.09.3.e, 5.22.3.c, 5.43 and 8.02.2, and modifies Case No. 2315 in order to permit the Petitioner's proposed project, subject to the following conditions:

1. Prior to the issuance of a building permit, an informal construction management plan shall be submitted for the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
the Board of Appeals


Lawrence E. Kaplan

Filing Date: September 18, 2007

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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